UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.121
25 April 2000

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Guyana

1. The Committee considered the second periodic report of Guyana (CCPR/C/GUY/99/2) at its 1829th to 1830th meetings, held on 24 and 27 March 2000, and adopted at its 1836th meeting on 30 March 2000 the following comments:

A. Introduction

2. The Committee expresses its satisfaction at the submission of the second periodic report of Guyana. It welcomes the opportunity to examine the State party's report after over a decade in which the State party has failed to fulfil its reporting obligations under article 40 of the Covenant. The Committee regrets that the report deals with the situation only up to 1987 and that it fails to provide information on the practical implementation of rights protected by the Covenant.

3. The Committee welcomes that copies of legislation were provided by the State party during the session, but regrets that the delegation was unable to provide full information on the current situation in the State party in answer to the list of issues and the Committee members' questions. The Committee notes that the list of issues was provided to the State party some months before the session. Some helpful written information was provided to the Committee during the discussions but did not address all the questions posed.

B. Positive aspects

4. The Committee notes with satisfaction the efforts being made by the State party to harmonize many aspects of the domestic legal order with international standards in its transition to democratic rule.

5. The Committee welcomes the enactment of the Domestic Violence Act in 1996 and its extension to children.

C. Principal subjects of concern and recommendations

6. The Committee is concerned that not all Covenant rights have been included in the current Constitution and therefore cannot be directly enforced. No information was provided as to how the rights that are enumerated in the Constitution are given effect and how their violations are remedied. The Committee notes that a Constitutional reform process is near completion in the State party, but regrets that the Delegation could not provide specific information as to how the enjoyment of Covenant rights will be ensured by the new Constitution.

> The State party should ensure that all Covenant rights are implemented in domestic law and should give consideration to including those rights in the new Constitution. It should also explain how the new Caribbean Court of Appeal will affect the remedies available to alleged victims of human rights violations.

7. The Committee regrets the continued application of the death penalty and is particularly concerned that in some cases the procedural safeguards of fair trial may not have been respected in imposing the death penalty, contrary to articles 6 and 14 of the Covenant.

> The State party is encouraged to consider the abolition of the death penalty. The State party must take measures to ensure strict compliance with procedural safeguards in all criminal cases.

8. The Committee regrets the lack of information concerning the right to legal assistance in practice for persons charged with criminal offences and urges the State party to ensure that its obligations in that regard under article 14 of the Covenant are fully met.

9. The Committee regrets that the State party has not taken steps to implement the Committee's Views in respect of communication No. 676/1996 (Yasseen and Thomas v. Guyana) under the Optional Protocol.

> The State party is urged to fully implement the Committee's Views in communication No. 676/1996 and to formally withdraw its reservation made on its re-accession to the Optional Protocol. The State party should consider adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol.

10. The Committee is deeply concerned about allegations that extrajudicial killings by the police take place in the State party and at information received alleging widespread police

brutality. The Committee is further concerned that the State party was unable to provide information about specific incidents to which the Committee drew attention.

Allegations of extrajudicial killings and excessive use of force should be promptly investigated by an impartial body and measures taken to ensure the prosecution of offenders and to provide effective remedies to victims. All law enforcement officials should be thoroughly trained in international human rights standards, particularly those contained in the Covenant (arts. 6, 7 and 10).

11. The State party should include detailed information in its next report about the role and functions of the Police Complaints Authority, measures taken to ensure its independence and impartiality, its relationship with other police investigative mechanisms and the implementation and effectiveness of its decisions and recommendations (arts. 6 and 7).

12. The Committee is concerned that corporal punishment is still resorted to in the State party and regrets the lack of specific information on this issue.

The State party should take legal and other measures to eliminate this practice (art. 7).

13. The Committee is concerned at the low level of participation by women in the workforce and in the conduct of public affairs. It regrets that the State party could not provide any information on the application and effect of the Anti-Discrimination Act of 1997 or the Equal Rights Act of 1990. It is also concerned at the apparent conflict between article 29 of the Constitution, which mandates equal rights for women and men, and article 149 (3) (b), which excludes from the prohibition on discrimination laws dealing with marriage, divorce, and inheritance.

The State party is urged to take positive measures to ensure equality of opportunity for women in all fields and to ensure that the principles of equality and non-discrimination on all grounds and in all areas of activity are fully implemented in the new Constitution.

14. The Committee is concerned that the Domestic Violence Act of 1996 appears to have been applied in very few cases and at the lack of information relating to its impact in reducing the level of violence against women.

Police and other law enforcement personnel should be trained to understand the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced.

15. The Committee regrets that the law relating to the arrest and charge of suspects does not appear to ensure compliance with article 9 of the Covenant in that it does not provide for persons to be brought promptly before a judge or provide an enforceable right to compensation against the State in case of unlawful arrest. The Committee regrets deeply that the periods of pre-trial detention are prolonged for as long as three or four years.

The State party should review its laws on arrest and detention and should take effective legal and other measures to reduce the period of pre-trial detention and to ensure full compliance with article 9 ((3) and (5)) of the Covenant.

16. The Committee expresses its profound concern that children, including children under 10 years of age, are held in detention on remand.

The State party should take immediate steps to ensure that children are not held in detention together with adults and that young children are not held in detention at all (arts. 10 (2) and 24).

17. The Committee expresses deep concern over dire prison conditions (art. 10 of the Covenant), including poor sanitation and lack of adequate food and medical care, resulting in disease and death. This is exacerbated by the excessive recourse to imprisonment as a punishment or as a preventive measure and by the overcrowding of prisons.

The State party is reminded of its obligation under article 10 to ensure that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. It is encouraged to consider greater use of alternative forms of punishment or preventive measures.

18. The Committee notes proposals to recruit part-time and temporary judges, to deal with the backlog of cases waiting to be tried.

The State party is urged to ensure that these measures do not undermine the competence, independence and impartiality of the judiciary.

19. The Committee is concerned that freedom of expression may be unduly restricted by reason of the government monopoly of radio broadcasting. It is also concerned at the lack of specific remedies for journalists who have been subjected to violence or harassment by the police or other authorities (art. 19).

The State party should remove restrictions on freedom of expression which are incompatible with article 19, paragraph (3), and should ensure that effective remedies are available to any person whose rights under article 19 of the Covenant have been violated.

20. The Committee is concerned at insufficient attention being paid to the need for multi-ethnicity within the police force, and at reports of considerable ethnic tension and at manifestation of incitement to discrimination, hostility or violence on racial grounds.

The State party should encourage recruitment to the police force of members of all ethnic communities, and ensure strict compliance with article 20 (2) of the Covenant by enforcing the prohibition of incitement to racial hostility and by taking measures to reduce ethnic tension between all the different groups in Guyana.

21. The Committee regrets the delay by the State party in amending the Amerindian Act, and is concerned that members of the indigenous Amerindian minority do not enjoy fully the right to

equality before the law. It is particularly concerned that the right of Amerindians to enjoy their own culture is threatened by logging, mining and delays in the demarcation of their traditional lands, that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities and that there appears to be no effective means to enable members of Amerindian communities to enforce their rights under article 27.

> The State party should ensure that there are effective measures of protection to enable members of indigenous Amerindian communities to participate in decisions which affect them and to enforce their right to enjoy their rights under the Covenant.

22. The Committee draws the attention of the State party to the new guidelines of the Committee on the preparation of reports (CCPR/C/66/GUI/Rev.1). The third periodic report should be prepared in accordance with those guidelines, with particular attention paid to the implementation of rights in practice. It should indicate the measures taken to give effect to these concluding observations. The third periodic report should be submitted by 31 March 2003.